



October 14, 2020

**By ECF**

Hon. Paul G. Gardephe  
United States District Judge  
Southern District of New York  
40 Foley Square  
New York, NY 10007

**Re: *Denson v. Donald J. Trump for President, Inc.*, No. 20 Civ. 4737 (S.D.N.Y.)**

Dear Judge Gardephe:

I write on behalf of Plaintiffs to apprise the Court of a new report relevant to the parties' pending cross-motions.

As noted in the Plaintiffs' motion for summary judgment and conceded by Defendant (the "Campaign"), the Campaign is engaged in ongoing arbitration against Omarosa Manigault Newman for alleged violations of the Campaign's Form NDA – the same NDA that is at the heart of this class action.<sup>1</sup> The Campaign claims that Ms. Manigault Newman violated the Form NDA by, among other things, stating that she would not vote for President Trump again.<sup>2</sup>

Yesterday, *The New York Times* reported that the Campaign has asked the arbitrator to enter an order requiring Ms. Manigault Newman to pay for an \$846,000, multi-platform, multi-state advertising campaign "as a 'corrective' remedy for her critical comments about President Trump in her 2018 book and in subsequent interviews."<sup>3</sup> The *Times* report also suggests that the Campaign may be seeking to have Ms. Manigault Newman herself appear in said advertising campaign to personally correct her statements. A copy of the *Times* report is attached as an exhibit to this letter.

The *Times* report is relevant to two important aspects of this case: first, it is relevant to the issue of standing and whether there is a credible threat of additional enforcement of the Form NDA; and second, it is relevant to several legal issues raised in Plaintiffs' summary judgment motion, including but not limited to the public policy implications of the Form NDA and whether the Court can properly "blue pencil" the Form NDA as the Campaign has suggested. In addition, the Campaign's continued efforts to enforce the Form NDA during an election have a chilling effect that extends beyond Ms. Manigault Newman, Ms. Denson, and those targeted by the Campaign to date.

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<sup>1</sup> See Pls.' SMF ¶¶ 14–18, ECF No. 21; Def.'s Resp. to Pls.' SMF ¶¶ 14–18, ECF No. 35; Def.'s Opp'n to Pls.' Mot. for Summ. J. at 4 n.2, ECF No. 34.

<sup>2</sup> Pls.' SMF ¶ 16, ECF No. 21; Declaration of David Bowles, Esq. Ex. L ¶ 14, ECF No. 26-12; Def.'s Resp. to Pls.' SMF ¶ 16, ECF No. 35.

<sup>3</sup> Maggie Haberman, *Trump Campaign Suggests Omarosa Manigault Newman Pay for \$1 Million in Ad Spending*, N.Y. Times (Oct. 13, 2020), <https://www.nytimes.com/2020/10/13/us/politics/trump-campaign-omarosa.html>.



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Respectfully submitted,

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Cc (by ECF): Counsel of Record